

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EBENEZAR PANNIKADAVIL,

Plaintiff,

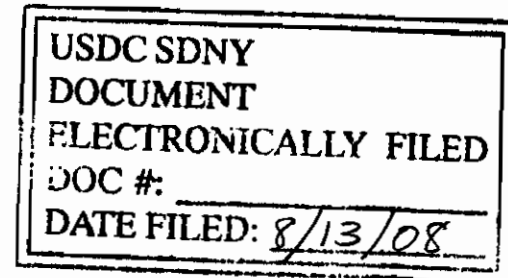
04 Civ. 8916 (RPP)

- against -

**OPINION AND
ORDER**

NEW YORK CITY HEALTH AND HOSPITALS
CORPORATION and CAROL RABOY-BRAUNSTEIN,

Defendants.
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ROBERT P. PATTERSON, JR., U.S.D.J.

Defendants' motion to reconsider is based on an assertion that the Court failed to consider page 6 of the Affidavit of Sara Rodriguez dated November 30, 2007 ("Rodriguez Aff."), supporting the Defendants' motion. Page 6 of the Rodriguez Affidavit was not included in the Court's courtesy copy or in the electronically-filed copy in the Clerk's Office.

The Court's review of the missing page shows that Defendants intended to provide evidence by affidavit, supported by business records, that the position posted on November 26, 2004 was for a position of Associate Laboratory Microbiologist, Level I, in the Microbiology Laboratory, and that the position was filled in February 2005 by Yelona Kravchik, a Laboratory Microbiologist Level B, who was already employed in the Microbiology Laboratory. The Court clearly did not consider this evidence in its decision. Defendants' motion to reconsider is granted. Since it may be helpful to the parties in settlement discussions to reconsider this issue, and since the issue may be better focused for trial, the Court will reconsider whether summary judgment should be granted

dismissing Plaintiff's retaliation claim. Plaintiff's counsel will have until September 3, 2008 to file papers answering Defendants' motion on this claim. Defendants' reply papers must be filed by September 10, 2008.

IT IS SO ORDERED.

Dated: New York, New York
August 13, 2008


Robert P. Patterson, Jr.
U.S.D.J.

Copy of this Opinion and Order sent to:

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